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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Lora J Green,

10 Plaintiff,

11 v.

12 Commissioner of Social Security
13 Administration,

14 Defendant.

No. CV-18-08018-PCT-DLR

ORDER

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16 Plaintiff Lora Green seeks judicial review of the Commissioner of the Social
17 Security Administration's decision to deny her application for a period of disability and
18 disability insurance benefits. Plaintiff argues that the Administrative Law Judge ("ALJ")
19 improperly weighed the opinion of Plaintiff's treating medical provider, gave too much
20 weight to the state agency examiner and physicians, and improperly discounted her
21 symptom testimony.

22 The Court has jurisdiction pursuant to 42 U.S.C. § 405(g) and reviews only those
23 issues raised by the party challenging the ALJ's decision. *See Lewis v. Apfel*, 236 F.3d
24 503, 517 n.13 (9th Cir. 2001). The ALJ's determination will be upheld unless it contains
25 harmful legal error or is not supported by substantial evidence. *Orn v. Astrue*, 495 F.3d
26 625, 630 (9th Cir. 2007). Having reviewed the parties' briefs and the administrative record,
27 the Court affirms.

28 1. The ALJ gave specific and legitimate reasons, supported by substantial evidence

1 in the record, for affording little weight to the opinion of Plaintiff's treating physician, Dr.
2 Venger. *See Lester v. Chater*, 81 F.3d 821, 830 (9th Cir. 1995). Dr. Venger opined that
3 Plaintiff could never lift or carry more than 5 pounds, stoop, squat, climb, or crawl; could
4 occasionally grasp, pull, push, and do fine manipulation with her hands; is unable to sit or
5 stand/walk more than 1 hour in an 8-hour workday; and has total restriction with respect to
6 being around moving machinery or occupational driving. Dr. Venger also noted that
7 Plaintiff is in constant pain, exacerbated by the physical demands of caring for her mentally
8 challenged child. The ALJ reasonably discounted Dr. Venger's assessment because it was
9 not supported by Dr. Venger's own treatment records. *See Bayliss v. Barnhart*, 427 F.3d
10 1211, 1216 (9th Cir. 2005). For example, with respect to Plaintiff's cervical and thoracic
11 spine, Dr. Venger found Plaintiff non-tender to palpitation, had no spasms, full range of
12 motion, normal muscle strength and tone, and no pain with neck movement. Dr. Venger
13 also observed minimal pain in Plaintiff's lumbosacral spine upon flexion, extension, and
14 bending. The ALJ also reasonably discounted Dr. Venger's opinion because it was based
15 to a large extent on Plaintiff's subjective complaints, which the ALJ found not entirely
16 credible. *See Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008).

17 2. The ALJ did not assign improper weight to state agency reviewers. Dr.
18 Schellenberg, the state agency consultative examiner, opined that Plaintiff did not suffer
19 from any limitations. State agency physicians Drs. Griffith and Painton found Plaintiff not
20 disabled, noting little evidence supporting the severity of her spinal disorders. The ALJ
21 gave legally adequate reasons for assigning partial weight to these opinions. For example,
22 the ALJ assigned partial weight to Dr. Schellenberg's opinion because it is based on
23 objective testing and observations Dr. Schellenberg made during his examination, and
24 because his opinion is consistent with the record as a whole. The ALJ gave partial weight
25 to the opinions of Drs. Griffith and Painton because their opinions are well-explained and
26 supported by the medical evidence. *See* 20 C.F.R. §§ 404.1527(c)(3)-(4).

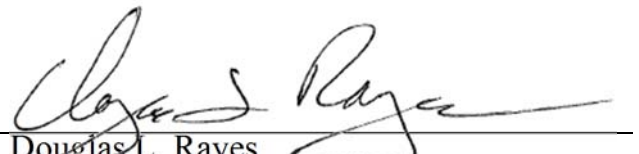
27 3. The ALJ provided the requisite specific, clear, and convincing reasons for
28 discounting Plaintiff's testimony concerning the severity of her symptoms. *See Smolen v.*

1 *Chater*, 80 F.3d 1273, 1281 (9th Cir. 1996). Plaintiff reported that she is bed ridden several
2 days a week due to extreme pain, has difficulty with buttons and tying shoes, needs help to
3 get out of the bathtub, is unable to shave or put on makeup, and needs reminders to take
4 her medication and tend to her personal needs. The ALJ reasonably found that Plaintiff's
5 testimony was inconsistent with the objective medical evidence. *See Rollins v. Massanari*,
6 261 F.3d 853, 857 (9th Cir. 2001). For example, despite Plaintiff's contention that her
7 impairments had a significant impact on her ability to stand and walk, medical evidence
8 reflected that Plaintiff's gait and station repeatedly were observed as normal and that
9 Plaintiff was prescribed no assistive devices. The ALJ also noted that the record contains
10 no electrodiagnostic evidence consistent with Plaintiff's reported inability to stand, sit or
11 walk during an 8-hour work day. The ALJ also reasonably discounted Plaintiff's testimony
12 because her part-time work and daily activities are not limited to the extent one would
13 expect given the severity of Plaintiff's claimed symptoms. *See Bray v. Comm'r Soc. Sec.*
14 *Admin.*, 554 F.3d 1219, 1221 (9th Cir. 2009). For example, Plaintiff worked part-time for
15 the Census Bureau since 2007 with no change in her work duties, and she is the primary
16 caregiver for her adult daughter, who is non-verbal and has Angelman syndrome.

17 Because the ALJ's decision is free of harmful legal error and reasonably supported
18 by the evidence,

19 **IT IS ORDERED** that the Commissioner's decision is **AFFIRMED**. The Clerk of
20 Court is directed to enter judgment accordingly and terminate this case.

21 Dated this 28th day of March, 2019.

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26 Douglas L. Rayes
27 United States District Judge
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